

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Bahia Amawi,	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Civil Action No. 1:18-CV-1091-RP
	§	
Pflugerville Independent School District; and	§	<i>consolidated with:</i>
Ken Paxton, in his official capacity as	§	
Attorney General of Texas,	§	Civil Action No. 1:18-CV-1100-RP
<i>Defendants.</i>	§	

**DEFENDANT KEN PAXTON’S, BOARD OF REGENTS OF THE UNIVERSITY OF HOUSTON
SYSTEM, AND BOARD OF REGENTS OF THE TEXAS A&M UNIVERSITY SYSTEM’S ANSWER AND
DEFENSES TO PLUECKER PLAINTIFFS’ COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Defendants Ken Paxton, Attorney General of Texas, the Board of Regents of the University of Houston System and the Board of Regents of the Texas A&M University System (collectively, Defendants) respectfully file their Answer to Pluecker Plaintiffs’ Complaint for Declaratory and Injunctive Relief, Doc. 1, Case No. 1:18-cv-1100-RP (W.D. Tex.).¹ In support, they respectfully show the Court as follows:

ANSWER TO COMPLAINT

Pursuant to Federal Rule of Civil Procedure 8(d), Defendants deny each and every allegation contained in the Complaint except for those expressly admitted herein. The headings and numbered paragraphs below directly correlate to the sections and numbered paragraphs of the Complaint. Those titles and headings are reproduced in this Answer for organizational purposes only, and Defendants do not admit any matter contained therein.

PRELIMINARY STATEMENT

1. Paragraph 1 contains assertions of law, conclusory statements, and/or argument to

¹ “Pluecker Plaintiffs” refers to Plaintiffs John Pluecker, Obinna Dennar, Zachary Abdelhadi, and George Hale.

which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

2. Defendants admit that House Bill 89 was enacted during the 2017 legislative session. Defendants deny the remaining allegations in Paragraph 2 of the Complaint.

3. Paragraph 3 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

4. Defendants deny the allegations in Paragraph 4 of the Complaint.

5. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

6. Paragraph 6 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

7. With respect to the allegations in Paragraph 7 of the Complaint, including subparts (a)-(d), Defendants admit that John Pluecker sought contracts with the University of Houston and that George Hale sought a contract with a National Public Radio member station owned and operated by Texas A&M University-Commerce. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

8. Paragraph 8 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

9. Paragraph 9 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations

requiring a response, Defendants deny the allegations in this Paragraph.

JURISDICTION AND VENUE

10. Defendants admit that Plaintiffs bring this action pursuant to 42 U.S.C. § 1983, but deny that they have committed any violations of law.

11. Paragraph 11 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants admit that, as a general matter, 28 U.S.C. § 1331 grants this Court jurisdiction to hear federal questions. Defendants deny that Defendants have committed any violation of applicable law or that Plaintiffs have otherwise demonstrated this Court's subject matter jurisdiction over any claims against Defendants.

12. Paragraph 12 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

13. Paragraph 12 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants admit that, as a general matter, 28 U.S.C. § 1391(b) addresses the appropriate venue for cases over which this Court may have jurisdiction, including that "[a] civil action may be brought in . . . a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated." Defendants deny that they have committed any violation of applicable law.

PARTIES

14. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

15. Defendants lack sufficient knowledge or information to form a belief about the truth

of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

16. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

17. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

18. Defendants admit that Ken Paxton is the Attorney General of Texas. The remaining allegations in Paragraph 18 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

19. Defendants admit that the Board of Regents of the University of Houston System is named as a defendant in this matter. The remaining allegations in Paragraph 19 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

20. Paragraph 20 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

21. Paragraph 21 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

22. Defendants admit that the Board of Regents of the Texas A&M University System is sued as a defendant in this matter. The remaining allegations in Paragraph 22 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in

this Paragraph.

STATEMENT OF FACTS

THE ACT

23. Paragraph 23 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants admit that this Paragraph reflects the operative version of Chapter 2270 prior to the passage of House Bill 793. Defendants deny that this Paragraph reflects the changes to Chapter 2270 passed in House Bill 793 and deny the remaining allegations in this Paragraph.

24. Defendants admit the allegations in Paragraph 24 of the Complaint.

25. Defendants deny the allegations in Paragraph 25 of the Complaint.

26. Defendants admit the allegations in Paragraph 26 of the Complaint.

27. Defendants admit the allegations in Paragraph 27 of the Complaint.

28. Defendants admit that, prior to the passage of House Bill 89, they did not have a policy or practice of requiring contractors to certify that they would not boycott Israel. Defendants deny the remaining allegations in Paragraph 28 of the Complaint.

MR. PLUECKER'S BACKGROUND

29. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

30. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

31. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

32. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

33. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

34. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

THE UNIVERSITY OF HOUSTON CONTRACTS

35. Defendants admit that Plaintiff Pluecker has previously contracted with the University of Houston as an independent contractor. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

36. Defendants admit that Plaintiff Pluecker was presented with a Standard Purchasing Agreement for translation services at a fixed price of \$1,500 for an initial term from March 23, 2018 to April 15, 2018. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

37. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

38. Defendant admits that Plaintiff Pluecker did not sign the referenced contract and crossed out the provision with his initials next to it. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

39. Defendants admit that Plaintiff Pluecker was required to sign the Standard Purchasing Agreement without redactions which Plaintiff Pluecker refused to do. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

40. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

41. Defendants admit that Plaintiff Pluecker was presented with a Speaker Agreement Form in September 2018 to be a speaker for the Department of Modern and Classical Languages for a fee of \$250 and that the form contained a “No Boycott” provision related to Israel. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

42. Defendants admit that Plaintiff Pluecker corresponded with the University of Houston by email regarding the referenced contract. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

THE ACT’S EFFECTS ON PLUECKER

43. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

44. Paragraph 44 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

45. Paragraph 45 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

46. Paragraph 46 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

47. Paragraph 47 contains assertions of law, conclusory statements, and/or argument to

which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

48. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

49. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

MR. DENNAR'S BACKGROUND

50. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

51. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

52. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

THE KLEIN ISD CONTRACT

53. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

54. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

55. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

56. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

57. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

THE ACT'S EFFECTS ON MR. DENNAR

58. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

59. Paragraph 59 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

60. Paragraph 60 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

61. Paragraph 61 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

62. Paragraph 62 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

63. Paragraph 63 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

64. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

65. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

MR. ABDELHADI'S BACKGROUND

66. Defendants lack sufficient knowledge or information to form a belief about the truth

of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

67. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

68. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

THE LEWISVILLE ISD CONTRACT

69. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

70. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

71. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

72. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

73. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

THE ACT'S EFFECTS ON MR. ABDELHADI

74. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

75. Paragraph 75 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

76. Paragraph 76 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations

requiring a response, Defendants deny the allegations in this Paragraph.

77. Paragraph 77 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

78. Paragraph 78 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

79. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

80. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

MR. HALE'S BACKGROUND

81. Defendants admit that Plaintiff Hale has worked as an independent contractor for Texas A&M University-Commerce. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

82. Defendants admit that Plaintiff Hale joined KETR in 2016. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

83. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

84. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

85. Defendants lack sufficient knowledge or information to form a belief about the truth

of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

86. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

THE TEXAS A&M UNIVERSITY-COMMERCE CONTRACT

87. Defendants admit the allegations in Paragraph 87 of the Complaint.

88. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

89. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

90. Defendants admit that Plaintiff Hale spoke to a supervisor with respect to the no boycott Israel clause in his contract. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

91. Defendants admit the allegations in Paragraph 91 of the Complaint.

92. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

93. Defendants deny the allegations in Paragraph 93 of the Complaint.

94. Defendants admit that Plaintiff Hale signed a contract with Texas A&M University-Commerce on October 10, 2018. Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

THE ACT'S EFFECTS ON MR. HALE

95. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

96. Paragraph 96 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

97. Paragraph 97 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

98. Paragraph 98 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

99. Paragraph 99 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

100. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

101. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis deny the allegations in their entirety.

CAUSES OF ACTION

VIOLATION OF FIRST AND FOURTEENTH AMENDMENT RIGHTS (42 U.S.C. § 1983)

102. Defendants repeat and reaffirm their answers to each and every allegation contained in the paragraphs above and incorporates the same herein as though fully set forth.

103. Paragraph 103 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

104. Paragraph 104 contains assertions of law, conclusory statements, and/or argument to

which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

105. Paragraph 105 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

106. Paragraph 106 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

107. Paragraph 107 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

108. Paragraph 108 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

109. Paragraph 109 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

110. Paragraph 110 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

111. Paragraph 111 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any factual allegations requiring a response, Defendants deny the allegations in this Paragraph.

REQUEST FOR RELIEF

Defendants deny that any relief sought by Plaintiffs in paragraphs (A)-(E) in the “Request for Relief” section of their Complaint is appropriate or warranted.

DEFENSES

Defendants assert the following defenses:

1. Defendants assert the defense of Eleventh Amendment immunity to all claims to which that defense applies.
2. Defendants assert that Plaintiffs lack standing to pursue any of their claims against Defendants.
3. Defendants assert that Plaintiffs’ claims against Defendants are moot.
4. Defendants assert that Plaintiffs have failed to state claims upon which relief can be granted.
5. Defendants assert that they have fully complied with all applicable laws.
6. Defendants reserve the right to raise additional affirmative defenses as they become apparent during the development of the case.

PRAYER

Defendants pray that Plaintiffs take nothing by this suit, that all costs be taxed and adjudged against Plaintiffs, and that Defendants be granted such other relief to which it may be justly entitled.

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

DARREN L. MCCARTY
Deputy Attorney General for Civil Litigation

AMANDA J. COCHRAN-MCCALL
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***Counsel for Ken Paxton, the Board of Regents
of Texas A&M System and the Board of
Regents of the University of Houston System***

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served upon Plaintiffs' counsel of record through the Court's electronic filing system on May 9, 2019.

/s/ Michael R. Abrams
MICHAEL R. ABRAMS